

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**RSA No. 793 of 1988 (O&M)
Date of decision: 01.09.2016**

State of Punjab

.... Appellant

Versus

Sardari Lal Kumara

.... Respondent

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Inder Pal Goyat, Addl. A.G., Punjab.

Mr. Vipin Mahajan, Advocate for the respondent.

P.B. Bajanthri, J. (Oral)

In the present appeal, the appellant has questioned the order of appellate court dated 17.10.1987.

2. The respondent was working as a General Manager, Punjab Roadways with effect from September, 1979. He was to cross efficiency bar in the pay scale of works Manager w.e.f. 01.06.1981. Therefore, he has filed suit in the year 1985 before the trial Court. The trial Court declined to grant relief and rejected the suit for declaration on 11.03.1987.

3. The respondent feeling aggrieved by the order of the trial Court preferred an appeal before the appellate court. On 17.10.1987 the appellate court allowed the appeal while decreeing the suit. Thus, appellants have presented this appeal.

4. For the purpose of efficiency bar statutory provision is Rule 4.8 of the Punjab Civil Services Rules Volume 1 part 1. Learned counsel for

the appellant submitted that for the purpose of granting any benefit and declaring efficiency, the employee must have a clean records in other words one must be eligible to be promoted to the next cadre/grade. During the relevant period or time i.e. whereas in the present case respondent as on 01.06.1981 enquiry was pending consideration. Therefore, grievance of the respondent was not considered by the State-appellant. During pendency of the lis on 06.06.1989 efficiency bar benefit has been granted under Rule 4.8 of the Punjab Civil Services Rules, Volume 1 Part 1 with a rider that subject to decision of the present RSA and it is also communicated that without prejudice to any other departmental action pending against him.

5. Appellate court erred in declaring that the respondent is entitled for bar efficiency even if enquiry is pending. Due to passage of time the respondent is directed to verify as on 01.06.1981 if the respondent was facing departmental enquiry and if he is exonerated in the disciplinary proceedings, then the respondent is entitled for efficiency bar w.e.f. 01.06.1981 or not. Apart from the disciplinary proceedings i.e. as on 01.06.1981 if he is otherwise eligible, the same shall be taken note of while reconsidering the efficiency bar of the respondent. Thus things should be examined by the appellant within a period of 3 months and to pass order at the earliest since the petitioner has already attained age of superannuation and retired from service.

6. Appeal is partly allowed.

(P.B.BAJANTHRI)
JUDGE

01.09.2016

pooja saini

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No